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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120412408-2408-01]

RIN 0648-XC163

Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2012 Winter II Quota

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS adjusts the 2012 Winter II commercial scup quota. This action complies with Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which established a process to allow the rollover of unused commercial scup quota from the Winter I period to the Winter II period.

DATES: Effective [insert date of publication in the FEDERAL REGISTER], through December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, (978) 281-9224.

SUPPLEMENTARY INFORMATION: NMFS published a final rule in the Federal Register on November 3, 2003 (68 FR 62250), implementing a process, for years in which the full Winter I commercial scup quota is not harvested, to allow unused quota from the Winter I period (January

1 through April 30) to be added to the quota for the Winter II period (November 1 through December 31), and to allow adjustment of the commercial possession limit for the Winter II period commensurate with the amount of quota rolled over from the Winter I period.

For 2012, the initial Winter II quota is 4,448,627 lb (2,018 mt), and the best available landings information indicates that 7,186,694 lb (3,259 mt) remain of the Winter I quota of 12,589,558 lb (5,710 mt). Consistent with the intent of Framework 3, the full amount of unused 2012 Winter I quota is transferred to Winter II, resulting in a revised 2012 Winter II quota of 11,635,321 lb (5,277 mt). Because the amount transferred is greater than 2,000,000 lb (907 mt), the possession limit per trip will increase to 8,000 lb (3,629 kg) during the Winter II quota period, consistent with the final rule Winter I to Winter II possession limit increase table published in the 2012 final scup specifications Table 3, (77 FR 24151, April 23, 2012).

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this in-season adjustment because it is impracticable and contrary to the public interest. The landings data upon which this action is based are not available on a real-time basis and were compiled only a short time before the determination was made that this action is warranted. If implementation of this in-season action is delayed to solicit prior public comment, the objective of the fishery management plan to achieve the optimum yield from the fishery could be compromised; deteriorating weather conditions during the later part of the fishery year will reduce fishing effort

and could result in the annual quota from being fully harvested. This would conflict with the agency's legal obligation under the Magnuson-Stevens Fishery Conservation and Management Act to achieve the optimum yield from a fishery on a continuing basis, resulting in a negative economic impact on vessels permitted to fish in this fishery.

Authority: 16 U.S.C. 1801 et seq.

Dated: August 27, 2012.

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Lindsay Fullenkamp,  
Acting Deputy Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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